

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10cv175**

ADAM CULP, personally and on behalf) of all similarly situated persons and in his) capacity as a taxpayer and resident of) the County of Mecklenburg, State of) North Carolina; and FRANSWA) KENNEDY, personally and on behalf of) all similarly situated persons and in his) capacity as a taxpayer and resident of) the County of Cabarrus, State of North) Carolina,)
)
)
Plaintiffs,)
)
Vs.)
)
MORTGAGE ELECTRONIC) REGISTRATION SYSTEMS, INC.;) BAC HOME LOANS SERVICING, L.P.;) CITIMORTGAGE, INC., as successor to) ABN AMRO MORTGAGE GROUP,) INC.; MERSCORP, INC.; and DOE) DEFENDANTS 1 - 20,)
)
)
Defendants.)
)

**ORDER OF
DISMISSAL**

THIS MATTER is before the court on the court's own Motion to Dismiss for want of prosecution. On August 26, 2010, the Clerk of Court issued a Notice of Lack of Prosecution, indicating that the case is subject to dismissal pursuant to Federal Rules of Civil Procedure 4(m). The Clerk provided notice therein that service had not been accomplished within the prescribed 120-day time period. After more than seven months of inactivity by plaintiff, Honorable Richard L. Voorhees, United States District Judge, issued an Order (#5) on November 19, 2010, warning plaintiffs and

their counsel further of such deficiency and advising them that, on or before Monday, December 14, 2010, plaintiffs were to provide the court proof of service upon defendants and that failure to do so “will result in dismissal without prejudice against any Defendant not yet served.” Judge Voorhees provided the following warning:

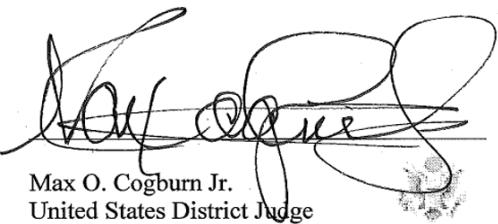
**FAILURE TO RESPOND ON OR BEFORE MONDAY,
DECEMBER 14, 2010, WILL RESULT IN DISMISSAL OF ALL
CLAIMS AGAINST DEFENDANTS WITHOUT PREJUDICE.**

Order (#5), at 2. Review of the docket since the entry of such Order reveals that neither plaintiffs nor their counsel have taken any action and that no other option other than dismissal is available.

ORDER

IT IS, THEREFORE, ORDERED that this action is **DISMISSED** in its entirety for want of prosecution without prejudice.

Signed: March 22, 2011



Max O. Cogburn Jr.
United States District Judge